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CHAPTER NINE

Policy Number: 9-1
Retail Purchase System
Effective/Revised Date: October 1, 2005

Title: Retail Purchase System

Purpose

Federal regulations authorize a variety of food delivery systems. This is to describe the system chosen by the Montana WIC Program.

Authority

7 CFR 246.12(b)

Policy

It is the policy of the Montana WIC Program that a retail purchase system is used for the delivery of food benefits.

Guidelines

I. Free of Charge

Participants shall receive the WIC Program's supplemental foods free of charge.

II. Authorized Retailers

- A. Only those food retailers/farmers authorized by the Montana WIC Program may redeem food instruments or otherwise provide supplemental foods to participants.
- B. A list of Montana's WIC-authorized retailers/farmers by city is available at all local agencies.

III. Participants

- A. A participant must travel to the retailer to exchange their WIC checks for the authorized food items.
- B. A participant may cash their WIC checks at any WIC-authorized retailer in Montana.

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CHAPTER NINE

Policy Number: 9-2

WIC Participant Hardship Access Criteria
Effective/Revised Date: October 1, 2002

Title: WIC Participant Hardship Access Criteria

Purpose

WIC participant hardship access criteria are required by federal regulations. The criteria may be used to determine if WIC participants will experience food access difficulties when disqualifying a WIC retailer within a geographic area. The criteria may also be used to determine if additional retailers are justified within an area

Authority

7 CFR 246.12(l)(1)(ix)

Policy

It is the policy of the Montana WIC Program that WIC participant hardship access criteria be established to ensure WIC participants have access to authorized retailers within their geographic area.

Guidelines

I. Inadequate Participant Access in Rural Areas

In rural areas, "Inadequate Participant Access" would be defined as having to travel a distance greater than ten (10) miles, one way, from where the participants cash the majority of their WIC checks.

II. Inadequate Participant Access in Urban Areas

In 'urban' areas (Billings, Bozeman, Butte, Great Falls, Helena, Kalispell or Missoula), "Inadequate Participant Access" would be defined as having to travel a distance greater than two (2) miles, one way, from where the participants cash the majority of their WIC check

Policy Number: 9-3
Retailer Stocking and Variety
Effective/Revised Date: October 1, 2002

Title: Retailer Stocking and Variety

Purpose

Retailers must stock the required items at all times in sufficient quantities to meet WIC participant demand.

Authority

7 CFR 246.12(g)(3)

Policy

It is the policy of the Montana WIC Program that businesses applying to become a grocer-type WIC retailer must carry and maintain a specific minimum variety and quantity of WIC-approved foods. This stock must be maintained at all times. Businesses applying to be a retailer – pharmacy, must maintain the variety and quantity of WIC foods stated in attachment B of the WIC Agreement. They must also have access to pharmaceutical formulas within 72 hours.

Procedures

I. Rationale

- A. Constant availability of WIC foods is an important component of the WIC Program. Participants should be able to purchase all food prescribed on the WIC checks when they shop at participating WIC retailers.
- B. In order to assist retailers, minimum variety and quantity stocking requirements were implemented. These requirements outline delineate WIC's expectations of what should be available to the participants at all times. They help the retailers keep better track of WIC food items. They provide WIC participants the assurance they will be able to use their WIC benefits at the authorized retailer at any time.

II. Stocking Levels

- A. A stocking shortage is considered a violation of the retailer contract.
- B. Small, rural retailers should review the "Infant Formula/Cereal/Baby Food Exemptions" policy 9-8.

III. First Report of Stocking Shortage

- A. When a shortage is first reported to the local agency by either the WIC participant(s) or the state office, the local agency retailer coordinator (LARC) should:
 - 1. encourage the participant to fill out a complaint form, "documenting" their complaint;

2. call the retailer to discuss the shortage, the next anticipated delivery date, and resolution;
3. document the conversation in the retailer file, and send a copy to the Montana WIC Program. The State will send a warning letter to the retailer, with a copy to the LARC.

IV. Subsequent Report of Stocking Shortage

- A. When a subsequent report of a stocking shortage is made, the LARC must:
 1. make an unannounced on-site visit to the retailer within 48 hours of the complaint;
 2. document the shortage, using the “Montana WIC Program Retailer Visit Report”;
 3. discuss the issue with appropriate store personnel (i.e., manager or department head), obtaining their signature on the visit report;
 4. mail the original form to the Montana WIC Program within 24 hours. The State will send a final warning letter upon receipt of the first subsequent complaint, and subsequently, sanction letter(s) to the retailer. Copies will be sent to the LARC. If the retailer is part of a chain, copies will be sent to the chain’s headquarters.
- B. The first time a retailer is sanctioned for inadequate stock nine (9) sanction points will be assigned. At any subsequent occasion, the retailer will be disqualified from participating in the WIC Program.
- C. Cases of extreme weather in which delivery trucks are unable to travel will be exempt from the mandatory stocking requirements.

V. Delivery Period

‘Delivery Period’ refers to the days the wholesaler is scheduled to deliver food stock to the retailer.

VI. Sanction Period

- A. ‘Sanction Period’ will consist of the next two delivery periods from the date of the on-site visit by the LARC.
- B. If, at the end of the sanction period, the retailer’s stock does not meet the variety and quantity requirements, sanction points will be assigned.

VII. Stocking Requirements

MINIMUM WIC MINIMUM STOCKING REQUIREMENTS

For All Montana Authorized Retailers

Retailers must have the following items in stock at all times in sufficient quantities to meet WIC participant demand. Failure to maintain this stock may result in disqualification from the Montana WIC Program. Quantities are based on the

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amounts needed to fill a benefit for one pregnant woman, one infant and one child.

Refer to the Approved Food List for authorized brands/types.

Food Item	Minimum Requirements
Milk Reduced fat (skim, 1%, or 2% - choose one) and Whole	3 gallons of each and 3 half-gallons of each
Cheese 16 or 8 oz packages	3 – 16 oz packages of two flavor varieties or 6 – 8 oz packages of two flavor varieties
Eggs dozens only	3 dozen
Breakfast Cereal 12-oz packages or larger cold cereal and 12 – 11 oz packages hot cereal	2 boxes of three varieties cold and 2 boxes of one variety hot (one of the above cold or hot varieties must be whole grain)
Whole Grain Items 16 oz loaves whole wheat bread and 16 – 14 oz packages brown rice	3 loaves of bread and 3 packages of brown rice
Juices 12-11.5 oz frozen and 64 oz plastic bottles	3 cans of two different flavors – frozen and 3 bottles of two different flavors - bottled
Peanut Butter 18-16 oz jars	3 jars
Legumes (mature beans) 16 – 14 oz bags dry and 16-14 canned legumes	3 packages of two varieties – dry and 10 cans of two varieties - canned
Tuna or Salmon 6-5 oz cans	6 cans
Infant Cereal 8-oz boxes	2 boxes of two different grain varieties
Infant Foods Fruits, 4 oz jars, Stage 2 only and Vegetable, 4 oz jars, Stage 2 only and Meats, 2.5 oz jars	20 jars of fruits and vegetables including two flavors of fruits and two flavors of vegetables and 10 jars of baby food meats
Infant Formula	

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12.9 oz can powdered Similac Advance Early Shield and Isomil Advance and Similac Sensitive	6 cans of each variety
Fresh Fruits and Vegetables	2 different varieties of fresh fruits and 2 different varieties of fresh vegetables

Policy Number: 9-4
Food Purchasing/Pricing
Effective/Revised Date: March 31, 2009

Title: Food Purchasing/Pricing

Purpose

The purchase price may not exceed the written amount assigned to the WIC fruit and vegetable benefit. The purchase price may not exceed the value of the “Not to Exceed” amount assigned to the WIC benefit, which is not printed on the standard WIC benefit. Setting a price limit is a cost-containment measure, which helps to reduce the potential for retailer fraud.

Authority

7 CFR 246.12(g)(4); the Montana Retailer Agreement

Policy

It is the policy of the Montana WIC Program that WIC participants are able to purchase all food items authorized on their WIC benefits. Price surveys are required to determine peer group averages, and to verify peer group placement.

Retail personnel may not ask the WIC participant to pay for any benefits not reimbursed in whole or part, by the Montana WIC Program. WIC benefits may not be used to pay for past due accounts

Procedures

I. Authorized Prices

- A. Prices authorized for the WIC benefits are based on the price surveys submitted by the authorized WIC retailers and benefit redemption data.
- B. Average prices are calculated by peer group.
- C. Peer group food prices are updated automatically by the system based on benefit redemption data.

II. Method

- A. Prices authorized on the WIC benefits are based on the price surveys submitted by the authorized WIC retailers every six months.
- B. Stores are assigned to peer groups, based on the number of benefits redeemed, ownership type, square footage and geographic location.

III. Accepting Benefits

- A. Check that the dates on the WIC benefits are valid. Do not accept WIC benefits before the “First Day of Use” or after the “Last Day to Use.”
- B. Retailer’s staff totals the WIC foods purchased, checking that the foods are specified on the WIC benefit and on the Approved Food List. Ask the WIC participant about missing foods before entering a dollar amount on the WIC benefit. The actual

purchase price of the foods is then written in by the clerk in the “Amount of Sale” box.

- C. Once the WIC benefit is correctly completed, the food retailer has the participant sign the WIC benefit in the box “Signature of participant or authorized proxy.”
- D. The retailer has 30 days from the date the benefit is accepted by the store to deposit the benefit.

IV. WIC Benefits Go Over “Not to Exceed” Amount

- A. Participants are to take their WIC benefits to the authorized retailer. Retailers may accept coupons from the participant to reduce the amount of sale, if the retailer normally accepts cents-off coupons. “Store cards” may also be used.
- B. WIC benefits rejected by the WIC bank for “over max price” must be submitted to the state office with either a copy of the receipt or the electronic journal transaction. State staff will review these documents to determine why the price was excessive. Redemption amounts will be adjusted accordingly.
- C. The retailer may NOT ask or demand the participant to pay the difference of benefits not fully reimbursed by the Montana WIC Program.
- D. Fruit and vegetable benefits may not be redeemed for an amount over the price printed in the description.

V. Corrective Action

- A. The State agency must provide participants, parents/caretakers, and proxies with instructions on the proper use of WIC benefits and with notification that they have the right to complain about improper retailer practices.
- B. The LARC will call the retailer to discuss the reported complaint and review the procedure for accepting WIC benefits. Documentation will be sent to the state. If another complaint is received regarding the same issue within the contract period it will be followed by a warning or a sanction letter from the state to the retailer, with a copy to the LARC.

VI. Price Maintenance Action

Retailers are to notify the Montana WIC Program whenever a sudden increase in price affects the calculated maximum value. Prices will be verified by State staff and compared to the retailers peer group. If necessary, a re-calculation will be done, and a new price entered into M-SPIRIT for the specific food item(s).

VII. Reconciliation of WIC Benefits

- A. A current retailer data base is sent to the bank when changes are made.
- B. The daily transactions are sent to the bank. This information includes the numbers and maximum cashed value for benefits issued by the local clinics during the day, benefits voided by the local clinics during the day and new retailer payment transactions approved by the State WIC Agency.
- C. Upon receipt of this information, assuming the benefit passes all validations, the bank will pay the benefit.

VIII. Handling Bank- Rejected Benefits

- A. WIC Benefits may be rejected by the WIC bank for number of reasons.
1. No/Illegible Retailer Stamp
 2. Invalid Retailer Number/Inactive Retailer
 3. Missing Signature
 4. Early Cashing
 5. Late Cashing
 6. Over Max Price
 7. Purchase Price Missing/Illegible
 8. Stop Payment
 9. Altered \$ Amount
 10. Not on Issued File
 11. Voided WIC benefit *
 12. Altered Food Package
 13. Already Paid
 14. Other
- B. Benefits stamped with the message “State Authorization Required” must be sent to the State WIC office for approval before resubmission to the bank. A copy of the transaction or the electronic journal entry must accompany the benefit. The benefit will be compared to the transaction for accuracy and approved or adjusted accordingly. Retailers without this ability will have items compared to the most recent price survey.
- C. Benefits stamped with the message “call your state office” must call for further instructions.
- D. Other benefits can be corrected by the retailer and resubmitted to the WIC bank.
- E. When the bank completes a payment, rejection or adjustment transaction, a record is written to an output file and it is sent to the State Host machine to update the WIC system with the bank activity on a nightly basis.

If	Then
the benefit is paid by the bank	the amount paid and date of payment fields are updated
the benefit is adjusted	the amount adjusted field and bank process date are updated
a benefit is rejected by the bank	the reason for rejection is updated

- F. A monthly close-out is reported on the FNS-798 (Monthly Financial and Program Status Report). The information for any closed out month includes whether or not every issued WIC benefit has been redeemed, expired, voided, or payment has been stopped.

G. Records in support of the FNS-798 are maintained in the State WIC Office.

Policy Number: 9-5
Formula Purchasing Requirements
Effective/Revised Date: March 31, 2009

Title: Formula Purchasing Requirements

Purpose

The purpose of this policy is to ensure formula safety by requiring retailers to purchase WIC infant formula from appropriately licensed businesses.

Authority

Section 203 (e) (8) of the Child Nutrition and WIC Reauthorization Act of 2004, P.L. 108-265

Policy

It is the policy of the Montana WIC Program to restrict the purchase of infant formula by WIC retailers or retailer-pharmacies to those member entities of a list created and maintained by the Montana WIC Program.

Guidelines

- I. Pursuant to federal regulations, the list of businesses on this list will consist of formula manufacturers, licensed food distributors, and authorized WIC retailers within the State of Montana, or those entities licensed to do business in Montana.
- II. This list will be shared with all authorized WIC retailers and retailer-pharmacies at least once every federal fiscal year.

Policy Number: 9-6
Store Sales, Specials and Coupons
Effective/Revised Date: October 1, 2005

Title: Store Sales, Specials and Coupons

Purpose

The Montana WIC Program operates a “retail” food delivery system, utilizing grocery stores throughout the state for the purchase of the WIC-authorized foods. The authorized stores are trained in proper WIC transaction policies and procedures, to ensure accurate and smooth transactions.

The Montana WIC Program is a nutrition education program. Part of the nutrition education is learning how to make wise food choices, getting the best and the most for the participant’s food dollars. Taking advantages of store sales and special promotions (such as store “club cards”), as well as using coupons factor into the process.

While the WIC Program is federally-funded, it is important to stretch the available food dollars to ensure adequate funding for all eligible WIC participants.

Authority

The Montana WIC Retailer Agreement

Policy

It is the policy of the Montana WIC Program that WIC participants be able to take advantage of store sales, special promotions (such as store “club cards”) and coupons when using their WIC checks. This also includes, but is not limited to “Buy One, Get One Free”, “Buy One, Get One (at a percentage off)”, or similar promotions.

Procedures

I. At check-out

- A. The retailer must make sale prices available to WIC participants when they are making a WIC purchase.
- B. If a store “club card” is required for a special promotion and the WIC participant has such a card, the retailer must allow the participant to take advantage of the promotion.
- C. The WIC participant will give store “club card” to the store cashier at the time the WIC checks are redeemed.
- D. If a retailer accepts coupons, they must allow the WIC participant to voluntarily use coupons to reduce the “Actual \$ Amount of Sale” for the WIC purchase.
- E. The cashier will ensure the prices charged include any store sale or other promotion, or the value of the coupons is deducted from the transaction total.

II. Club Cards or Special Programs

Participants are not required to join any “club card” or other program, but must be allowed to take advantage of the programs if they are members. To not allow such

participation or the use of sale prices or promotions is a form of participant discrimination, a sanctionable offense of the WIC Retailer Agreement.

III. Follow-Up Actions

- A. A WIC participant not receiving sales prices is to request the assistance of the store manager at the time of the WIC purchase.
 - 1. If the store manager does not allow the sales prices or special promotion, the participant is to get the names of both the cashier and the manager, and report them to the local WIC agency immediately afterwards.
 - 2. It is recommended that the names of any witnesses be given to the WIC staff, as well as a copy of the cash register receipt.
 - 3. The local WIC agency is to call the store manager to discuss the matter. On-site store training for store staff may be a required resolution to this problem.

Policy Number: 9-7
Substitutions for Authorized Foods
Effective/Revised Date: October 1, 1997

Title: Substitutions for Authorized Foods

Purpose

Authorized WIC foods are chosen for reasons specific to supplemental nutrition for women, infants and children. Other foods do not meet those reasons. However, due to inclement weather or other extreme conditions, deliveries of foods to stores may cause temporary inventory shortages. When a retail store runs out of a specific WIC food, a substitution is allowed.

WIC foods are provided for a specific participant and may not be shared, traded, sold, nor returned for cash or other products.

Authority

7CFR 246.12

Policy

The only allowable substitution for an authorized WIC food is another WIC food of the same category in an equal or lesser quantity.

Guidelines

- I. Rain checks, or credit slips for food purchased with WIC checks, are not allowed.
- II. Participants may not exchange WIC foods for non-WIC foods, for other WIC foods, for cash or for credit.
- III. WIC participants are not allowed to purchase larger sizes of a WIC food than specified on their WIC checks and pay the price differential.
- IV. Retailers may exchange a WIC food for another WIC food of the same category on a one-to-one basis.
- V. Infant formula may not be returned to the retailer unless it is found to be spoiled or outdated. Participants who request an exchange of previously purchased formula for another formula must be referred to the WIC clinic.
- VI. WIC foods are sometimes recalled by the manufactures. The defective food items are either to be discarded or returned to the store of purchase. If store policy allows the exchange of a defective item, the item should be exchanged for a different brand of the same food item.

Policy Number: 9-8
Infant Formula/Cereal/Baby Food Exemptions
Effective/Revised Date: October 1, 2009

Title: Infant Formula/Cereal/Baby Food Exemptions

Purpose

The Montana WIC Program acknowledges that infant formula is a costly expense. The WIC Retailer Agreement requires the retailer to stock three formulas: one standard milk-based, one low lactose milk based and one standard soy-based in powdered formats. Retailers may lose money on infant cereal and/or infant formula if these items are not sold in a timely basis. In order to encourage retailer participation in smaller communities, an exemption may be granted upon State approval of a written request, per the Retailer Agreement.

The report of a small infant population must be verified in writing by the local WIC agency's retailer coordinator (LARC).

Authority

The Montana WIC Retailer Agreement

Policy

It is the policy of the Montana WIC Program that WIC retailers in rural areas and having an extremely small infant population are allowed to apply for an exemption to the stocking requirement for infant cereal, infant formula, or baby food. The exemption will be for the length of the current contract period. The exemption may be canceled if the infant population increases significantly. Exemptions will NOT be given to initial applicants.

Procedure

I. General Information

- A. Retailers applying for and receiving an infant formula, infant cereal or baby food stocking exemption must post a sign directing participants to a contact person.
- B. The contact person will then order the required product from their wholesaler. The formula must be available to the participant within 72 hours (three days).
- C. The retailer must continue to have the stock available as long as the participant is in need of the formula or baby food item.

II. Application for exemption

- A. The retailer must submit a written request to the Montana WIC Program, specifying the exact infant food items they wish to have exempted. The only acceptable rationale for a stocking exemption is a small infant population.
 - 1. The State will verify the infant population base with the local agency and decide.
 - 2. The State will notify the retailer and the LARC of their decision in writing.
 - 3. Only upon receipt of written approval from the State Office, may the retailer discontinue stocking the specific items.

4. The exemption will be for the term of the present contract only. A new exemption must be requested, reviewed and granted for each subsequent contract period.

III. Continuing Responsibilities

- A. The retailer is required to post a sign in their business identifying the specific person a WIC participant should contact to order the exempted cereal and/or formula.
- B. The retailer is required to have the exempted cereal and/or formula in their business within 72 hours (3 business days) of the request. This must be stated on the posted sign.
- C. The retailer is required to submit prices for the exempted items on the quarterly price surveys. The prices submitted should be what would be charged if the items were in stock.

IV. Participants

Upon receipt of their WIC checks, participants must inform the retailer contact person of the amount of formula or foods required so the requested food/formula formula could be ordered and be available for purchase.

Title: WIC Retailer Requirements

Purpose

The following describes qualifications necessary for a business to become a WIC-authorized retailer.

Authority

7 CFR 246.12 (g)

Policy

It is the policy of the Montana WIC Program to create and maintain specific standards to be met for a business to become a WIC-authorized retailer.

Guidelines

I. Definition

- A. A Montana WIC retailer is a business that contracts with the Montana WIC Program to accept WIC checks and furnish WIC-authorized foods to WIC participants.
- B. There are two basic types of WIC retailers:
 - 1. Retail Grocer - carries a required variety of WIC-authorized foods
 - 2. Retailer-Pharmacy - meets the Retail Grocer requirements, AND has access to specific formula.

II. General Requirements

- A. The following are qualifications for becoming a Montana WIC retailer:
 - 1. The business must be licensed with the State of Montana or local tribal authority.
 - 2. The business must have Workers' Compensation coverage or similar private coverage.
 - 3. Proof of General Liability Insurance coverage is required.
 - 4. The business must have a permanent location; i.e., no stores on wheels.
 - 5. The business must be accessible to WIC participants, parents or caretakers of infant and child participants, or proxies and any disabled person.
 - 6. Stores charging membership fees are not eligible to become a WIC authorized retailer.
 - 7. The retailer has no previous conviction of or a civil judgment against them for a business-related felony or first-degree misdemeanor within six (6) years, including any criminal conviction for a program violation by any current employees or owners, officers, directors or partners whose duties include handling WIC benefits.

8. The retailer has no history of serious WIC non-compliance during a three (3) year period immediately prior to the date of application. "Serious" WIC non-compliance includes, but is not limited to:
 - a. disqualification from WIC for two or more years as a result of the action of the retailer, one of its employees, or owners, officers, directors or partners;
 - b. termination of a previous WIC agreement with an outstanding reimbursement or sanction points assigned; or
 - c. failure to take requested action thirty (30) days after notification by certified mail, failure to provide requested data or records, failure to allow monitoring of the retailer, or failure to attend the required training.
- B. Disqualification from the WIC Program may result in automatic disqualification from SNAP.
- C. The retailer has no history of serious Supplemental Nutrition Assistance Program (SNAP) non-compliance during a three (3) year period immediately prior to the date of application. "Serious" SNAP non-compliance includes:
 1. current disqualification from SNAP; or
 2. receipt of a civil money penalty in lieu of a disqualification.
- D. Disqualification from SNAP may result in automatic disqualification from the WIC Program.

III. Retailer-Pharmacy

- A. Retailer-Pharmacies must have access to, not necessarily have on hand, the following:
 1. Alimentum, in 16-oz powdered, 32-oz ready-to-feed
 2. Enfacare LIPIL, in 12.8-oz powdered, 32-oz ready-to-feed
 3. Neosure, in 12.8-oz powdered, 32-oz ready-to-feed
 4. Nutramigen Enflora LGG, 12.6-oz powdered
 5. Nutramigen LIPIL, 16-oz powdered, 13-oz concentrate, 32-oz ready-to-feed
 6. Pediasure, in 8-oz ready-to feed
 7. Pediasure with fiber, in 8-oz ready-to-feed
 8. Pregestimil LIPIL, in 16-oz powdered
 9. Similac Sensitive R.S. in 12.9-oz powdered, 32-oz concentrate
 10. other formula generally available through usual pharmaceutical suppliers.

IV. Retail Grocery Store

- A. The following are the minimum variety requirements for a grocery store to become a WIC retailer. These should be compared to the authorized food lists to determine exact size and brands:
 1. Bread: whole wheat bread in one pound loaves – specific brands

2. Brown rice: 16-14 ounce packages.
3. Infant Formula: the powdered format of the three current contracted milk-based and soy-based formula (Similac Advance EarlyShield, Similac Sensitive, and Isomil Advance);
4. Infant Cereal: TWO of the listed grains, plain (no fruit or formula added);
5. Baby Foods: two different varieties each of single flavor fruits, vegetables and meats;

*Small stores not having the infant population to justify carrying the infant formula, infant cereal, or baby foods must contact the Montana WIC Program in writing for an exemption. A sign must be posted in the store instructing the WIC participants to which store personnel to contact to order the infant formula/cereal/baby food.
6. Cereal: THREE cold and ONE hot of the listed varieties;
7. Cheese: TWO of the listed varieties;
8. Eggs: Large, white, Grade AA or A;
9. Legumes (mature beans): dry and canned, two varieties of each type;
10. Juice: two different flavors frozen and 64-oz plastic bottles;
11. Milk: WHOLE and ONE REDUCED-FAT in gallons and half-gallons;
12. Peanut Butter: one brand;
13. Tuna or Pink Salmon: one variety of 5-oz or 6-oz cans;
14. Fresh Fruits and Fresh Vegetables: two different varieties of fresh fruits and fresh vegetables.

B. Required Quantities

1. A specific minimum quantity of authorized WIC foods must be in stock in sufficient quantities to meet WIC participant demand.

See Retailer Stocking and Variety Policy 9-3.

Policy Number: 9-10
Confidentiality of Retailer Information
Effective/Revised Date: October 1, 2002

Title: Confidentiality of Retailer Information

Purpose

Information about any retailer/farmer with the exception of name, address, authorization status, telephone number, website and email address, and store type is considered confidential. Release of confidential retailer information is limited by the Federal WIC Regulations.

Authority

7 CFR 246.26(e) and (f)

Policy

The release of confidential retailer information is restricted.

Guidelines

I. The release of confidential retailer information to:

- A. Persons whom the State Office has determined have a need to know for program purposes because of a direct connection with the administration or enforcement of the WIC Program or SNAP, for example:
 - 1. Montana WIC Program Local Agency Retailer Coordinator or their designate;
 - 2. contractors hired by the Montana WIC Program to perform compliance buys or investigations of program abuse;
 - 3. other WIC State Agencies;
 - 4. other WIC State's Local Agencies; and
- B. Persons investigating or prosecuting WIC or SNAP violations under Federal, State or local law.
- C. Persons directly connected with the administration or enforcement of any Federal, State law (see notation).

Note: A written agreement must be entered into with any non-Federal agency specifying that information provided may not be used or disclosed except for the direct purpose of administration or enforcement of a Federal or State law.

- D. An individual Retailer when subject to an adverse action, including claim information related to the adverse action.

II. Limitations of WIC

The Montana WIC Program will apply the same limitations to the use and release of information obtained from SNAP regarding SNAP retailers whether or not the retailer is also a WIC retailer.

Procedures

I. Introduction

- A. The release of retailer/farmer information beyond retailer name, address, authorization status, telephone number, website and email address, and store type is directed by Guidelines (above). All requests for confidential retailer/farmer information must be directed to the State Office.
- B. Requests for confidential retailer/farmer information will be treated the same for a WIC Retailer or a SNAP Retailer.

II. Who May Authorize

The Montana Retailer Coordinator, Administrative Services Unit Lead or the Montana WIC Program Manager will determine the appropriateness of a request for confidential retailer information.

III. Requirements

Requests for confidential retailer information from an entity outside of the Montana WIC Program must be in writing.

IV. Timeline

The Retailer Coordinator will respond to the request for confidential information within ten (10) working days with the exception when legal advice or a legal opinion is sought from the DPHHS legal services. In the event the request to legal services delays the response, the Retailer Coordinator will notify the requestor in writing of the delay. No request response will be delayed beyond thirty (30) days.

V. Documentation

Any request for confidential retailer information must be documented in the Retailer's file by dates including any action taken, agreement for release or information released. State Office staff responsible for each action must sign the documentation.

VI. Procedure for a Montana WIC Program Local Agency Request or a Montana WIC Contractor

- A. The procedure to follow if the requesting entity is a Montana WIC Program Local Agency or a Montana WIC Contractor is contained in Table 1 below.

Table 1

Step	Action	
1	A written or verbal request for confidential retailer information is received from a Montana Local Agency Retailer Coordinator (LARC), their designate or a Montana WIC Contractor.	
2	The Retailer Coordinator will contact the LARC or Contractor to determine the purposed use of the information requested.	
3	IF the use of the information requested is ... appropriate, inappropriate	THEN the Retailer Coordinator will ... release it. not release the information and explain to the LARC or Contractor why it can not be released.

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4	The Retailer Coordinator documents and signs in the Retailer's file the date of the request, dates of other contacts, persons involved, information requested, purposed use of the information, and action taken.
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B. Procedure for a SNAP Request

1. The procedure to follow if the requesting entity is the Food Stamp Program is contained in Table 2 below.

Table 2

Step	Action		
1	A written request for confidential retailer information is received from SNAP		
2	The Retailer Coordinator will contact SNAP to determine the purposed use of the information requested.		
3	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; vertical-align: top;"> IF the use of the information requested is... appropriate, inappropriate, </td><td style="width: 50%; vertical-align: top;"> THEN the Retailer Coordinator will ... release it. not release it and explain in writing to SNAP the Food Stamp Program why it can not be released. </td></tr> </table>	IF the use of the information requested is... appropriate, inappropriate,	THEN the Retailer Coordinator will ... release it. not release it and explain in writing to SNAP the Food Stamp Program why it can not be released.
IF the use of the information requested is... appropriate, inappropriate,	THEN the Retailer Coordinator will ... release it. not release it and explain in writing to SNAP the Food Stamp Program why it can not be released.		
4	The Retailer Coordinator documents and signs in the Retailer's file the date of the request, dates of other contacts, persons involved, information requested, purposed use of the information, and action taken. Copies of correspondence regarding the request will be filed in the Retailer's file.		

C. Procedure for Another WIC State or Local Agency Request

1. The procedure to follow if the requesting entity is another WIC State or Local Agency is contained in Table 3 below.

Table 3

Step	Action		
1	A written request for confidential retailer information is received from another WIC State or Local Agency.		
2	The Retailer Coordinator will contact the WIC State or Local Agency to determine the purposed use of the information requested.		
3	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; vertical-align: top;"> IF the use of the information requested is ... appropriate, inappropriate, </td><td style="width: 50%; vertical-align: top;"> THEN the Retailer Coordinator will ... release it. not release the information and send written notification to explain why it can not be released. </td></tr> </table>	IF the use of the information requested is ... appropriate, inappropriate,	THEN the Retailer Coordinator will ... release it. not release the information and send written notification to explain why it can not be released.
IF the use of the information requested is ... appropriate, inappropriate,	THEN the Retailer Coordinator will ... release it. not release the information and send written notification to explain why it can not be released.		
4	The Retailer Coordinator documents and signs in the Retailer's file the date of the request, dates of other contacts, persons involved, information requested, purposed use of the information, and action taken. Copies of correspondence regarding the request will be filed in the Retailer's file.		

D. Procedure for a Person Directly

1. Connected to the Administration or Enforcement of the Federal or State Law Request. The procedure to follow if the requesting entity is a person directly connected to the administration or enforcement of Federal or State law is contained in Table 4 below.

Table 4

Step	Action	
1	A written request for confidential retailer information is received from a person directly connected to the administration or enforcement of Federal or State law.	
2	The Retailer Coordinator will contact the person to determine the purposed use of the information requested. If necessary, the legal services for DPHHS will be contacted for advice or a legal opinion.	
3	IF the person is making the request on behalf of a State agency or other law enforcement agency a Federal agency	THEN the Retailer Coordinator will have the entity enter into a written agreement with DPHHS specifying the release of such information may not be used or disclosed except for purposes directly connected to the administration or enforcement of a Federal or State law. continue the process.
4	IF the use of the requested information is ... appropriate, inappropriate,	THEN the Retailer Coordinator will release the information. not release the information and send a written notification explaining why it can not be released.
5	The Retailer Coordinator documents and signs in the Retailer's file the date of the request, dates of other contacts, persons involved, information requested, purposed use of the information, and action taken. Copies of correspondence regarding the request will be filed in the Retailer's file.	

E. Procedure for a Retailer Request

1. The procedure to follow if the requesting entity is the Retailer is contained in Table 5 below.

Table 5

Step	Action
1	A written request for confidential retailer information is received from a Retailer who has received notice of an adverse action from the Montana WIC Program.
2	The Retailer Coordinator will contact the Retailer to determine if the information requested is related to the adverse action. If necessary, the legal services for DPHHS will be contacted for advice or a legal opinion.

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3	IF the information requested ... relates to the adverse action, does not relate to the adverse action,	THEN the Retailer Coordinator will ... release the requested information. not release the requested information and send a written notification explaining why it can not be released.
4	The Retailer Coordinator documents and signs in the Retailer's file the date of the request, dates of other contacts, persons involved, information requested, purposed use of the information, and action taken. Copies of correspondence regarding the request will be filed in the Retailer's file.	

Policy Number: 9-11
Store Types Not Authorized by WIC
Effective/Revised Date: March 31, 2009

Title: Store Types Not Authorized by WIC

Purpose

Various businesses have applied for WIC authorization. This is to describe specific businesses NOT authorized to participate in the Montana WIC Program.

Authority

Public Law 108-447, Consolidated Appropriations Act, 2005

Policy

It is the policy of the Montana WIC Program to only authorize stores that will meet the needs of the WIC participants. This limits the types of stores to grocery and grocery with pharmacy.

Guidelines

- I. There are other store types that may meet the need of the WIC participants, but are not within the pricing criteria set by the Montana WIC program.
 - A. Three types include 'WIC Only' stores, 'Over 50 percent' stores, and stand-alone pharmacies.
 - B. Based on federal regulations, Montana does not authorize 'Over 50 Percent' stores.
- II. 'WIC Only' stores are stores that sell only WIC-approved foods to WIC participants. New WIC-only stores must be certified by FNS for WIC participation under federal regulations. Montana did not have any WIC-only stores at the time these regulations went into effect.
- III. 'Over 50 percent' stores are stores that make more than 50-percent of their annual sales from WIC purchases. Under federal regulations, must be certified by FNS.
- IV. Stores charging a membership fee are not eligible to become a WIC authorized retailer.
- V. Stand-alone pharmacies are pharmacies that strictly sell pharmaceuticals. Their prices for standard formulas are higher than other authorized WIC retailers. Montana has worked directly with the formula manufacturers to obtain special formulas not readily available in the larger combination grocery-pharmacy retailers.
- VI. After a review of the FFY 2008 data, it has been determined that Montana has no over 50 percent retailers.

Policy Number: 9-12
Retailer Selection Criteria
Effective/Revised Date: October 1, 2002

Title: Retailer Selection Criteria

Purpose

Selection criteria ensure that retailers are able to meet the needs of their WIC participants/customers. This enables the WIC Program to ensure food dollars are spent efficiently, and to manage the retailer system effectively.

Authority

7 CFR 246.12(g)

Policy

It is the policy of the Montana WIC Program that businesses either applying or re-applying for authorization as WIC retailers must meet specific criteria before being approved. Retailers must maintain these standards throughout their contract period as a WIC retailer.

Guidelines

I. Initial Application Standards

- A. Has passed the most recent inspection by the local sanitarian.
- B. Within the last six (6) years, neither the business nor any of its owners, officers or managers has been convicted of or had a civil judgment entered against them for any activity indicating a lack of business integrity.
- C. Is not currently disqualified from SNAP.
- D. Their food prices are equal to or under the maximum authorized for their assigned peer group.
 - 1. Competitive prices are required by federal regulations.
 - 2. Competitive prices allow a price limit per peer group to exist creating a funding limit, per food package. This helps maximize the available funds to its greatest potential.
- E. Their infant formula prices are equal to or under the maximum authorized for their assigned peer group.
- F. Infant formula must be purchased from the Montana WIC Programs approved formula list.
- G. Stock and provide a variety of foods in each of the following staple food groups on a continual basis:
 - 1. meat, poultry and/or fish
 - 2. bread and cereal
 - 3. fruit and vegetables, and
 - 4. dairy.

- H. Has the minimum food stock required by the Montana WIC Program, as specified in policy 9-3.
- I. Provides 1-Stop/Tribal License, proof of Workers Compensation and Liability Insurance.
- J. Based on Local Agency input and regional assessment it is determined that there is a need for an authorized WIC retailer in the requested area.
- K. No barrier to service exists.
- L. Receive or be expected to receive no more than fifty percent (50%) of their total annual food sales from WIC transactions.
- M. An owner, officer, or partner of a retailer must not have bought or sold a store in order to avoid a WIC sanction.
- N. Inform the Department of any potential or real conflict of interest between WIC staff, either state or local, and Contractor personnel. Conflicts of interest may include, but are not limited to, the following:
 - 1. Employing a state or local WIC agency staff member or spouse, son, daughter, parent or sibling of a local or state WIC agency staff member.
 - 2. Giving a fee or gift to a local or state WIC program staff member in exchange for being provided WIC information, for WIC staff action that would materially benefit the Contractor, or for preferentially promoting the Contractor. (Note: Donations to a promotional event encouraging WIC participation are not considered to create a conflict of interest).
 - 3. Accepting, either directly or through a relative, a substantial gift of financial assistance from a local or state WIC staff member.
 - 4. Entering into a business transaction with a local or state WIC staff member or allowing such a staff member to acquire a pecuniary interest in the Contractor.

II. New Retailers to Montana WIC Program

Retailers new to the Montana WIC Program may apply for authorization at any time during the federal fiscal year.

III. Subsequent Application Standards

- A. In addition to maintaining the standards for the initial application, a subsequent applicant must also meet the following standards:
 - 1. Within the last contract year, has maintained a minimum WIC participant/customer base:
 - a. 'Rural' retailers have served at least five (5) WIC participants per month.
 - b. 'Urban' retailers (those located in Billings, Bozeman, Butte, Great Falls, Helena, Kalispell or Missoula) have served at least ten (10) WIC participants per month.
 - 2. Has attended the required ~~annual~~ WIC training.

3. Has successfully resolved and responded in writing, to all problems brought to their attention by the WIC Program within a sixty (60) day period.
- B. Retailers applying for subsequent authorization must submit an application within the cover letter's stated timelines, or risk losing their WIC authorization.

IV. Change of Ownership

- A. The authority to participate in the Montana WIC Program is not transferable. The Montana WIC Program must be notified in writing of any change of ownership. A change of ownership can be, but is not limited to:
 1. A partial change of ownership (i.e., one partner buying out another).
 2. A complete change of ownership (i.e., an outside interest purchases the business).
 3. A change in corporate structure (i.e., going from 'sole proprietor' to 'corporation').
- B. Whenever the Federal Employer Identification Number (FEIN) changes, the retailer must re-apply for WIC authorization as an initial applicant. Failure to do so will result in loss of WIC authorization.
- C. The Montana WIC Program may not authorize an applicant if it is determined that the business was sold to circumvent a WIC sanction. If such determination is made after authorization is granted, the authorization (WIC Agreement) will be terminated.

V. Change of Location

- A. A change of location may affect the WIC authorization. The Montana WIC Program must be notified in writing of any change of location. Authorization will not be affected if:
 1. The ownership remains the same.
 2. The old location is being closed, and the new location is considered a 'replacement' location.
 3. The new location is within two (2) miles of the old location.
- B. Failure to notify the Montana WIC Program of a change in location will result in loss of WIC authorization.

Policy Number: 9-13
Retailer Peer Grouping
Effective/Revised Date: December 1, 2009

Title: Retailer Peer Grouping

Purpose

The placement of retailers in “peer groups” will allow a closer monitoring of retailer pricing.

Authority

7 CFR 245.12(g)(4)(ii)

Policy

It is the policy of the Montana WIC Program to assign WIC-authorized retailers to a specific “peer group”. “Peer groups” are determined by statistical similarities shared by retailers throughout the state.

Guidelines

I. Federal Regulations Mandate by the State

Federal regulations mandate that State agencies establish competitive pricing and price limitations for WIC retailers. Limitations must be established to ensure that retailers are within the same pricing structure as similar retailers throughout the state, and not overcharging the WIC Program. Peer groups are used to statistically divide Montana retailers into groups that will best fit various criteria.

II. Peer groups in Montana

- A. Montana WIC peer groups are based on geographic location, ownership type, number of WIC redemptions and square footage.
- B. Competitive pricing is ensured by reviewing a new retailer applicant’s price survey, using it to place a retailer in a peer group, and then comparing the new retailer’s prices to others in that peer group. If a retailer’s prices are not consistent with those of their peer group, placement will be reviewed and investigated.
- C. Benefits with redemption errors will be rejected by the bank if the peer group maximum price is exceeded. Peer group prices will be set based on benefit redemption data. This ensures that participants and vendors will not encounter redemption problems if appropriate food items are being purchased. Benefits that exceed the maximum price will be reviewed and investigated.

III. Factors of Peer Group Placement

Factors used to determine peer group placement may be modified periodically to achieve a more accurate grouping.

Procedures

I. Retailer Peer Grouping

A. Introduction

1. Federal regulations mandate that all State agencies implement competitive pricing and price limitations to ensure that WIC participants are able to purchase the entire allotment of WIC foods authorized on the WIC benefits. To prevent price gouging, peer groups have been created. Peer groups allow statistically similar retailers with similar pricing to be banded together.

II. Review

- A. New retail applicants will be reviewed for peer group placement at time of authorization and 6 months after that.
- B. All authorized retailers will be reviewed for peer group accuracy at contract renewal time and every three years.
- C. Peer groups will be modified as necessary to enhance system performance. Any changes of peer group will be documented in the retailer's file.

III. Peer Group Food Prices

- A. Peer group food price averaging will be updated automatically by the system based on redemption data.
- B. Price surveys will be conducted every six months to monitor trends and to determine ongoing competitiveness within the peer groups.

Policy Number: 9-14
Initial Retailer Application
Effective/Revised Date: October 1, 2005

Title: Initial Retailer Application

Purpose

As the WIC population grows and the WIC retailer base changes, new retailers must be authorized to make available the WIC foods in a WIC transaction. An application process must be in place to expedite the handling of new applications.

Authority

State Policy

Policy

It is the policy of the Montana WIC Program to obtain all federally required information to determine if a WIC retailer applicant meets the criteria to participant in the Montana WIC Program.

Guidelines

I. New Retailer Authorization

- A. New (i.e., not currently participating) retailers must contact the Montana WIC Program to request application consideration. Applications requests for new retailers will be considered at any time.
- B. Initial screening will take place and the Local Agency consulted. Based on information gathered, an application may or may not be sent.
 - 1. If no application is sent, inform the retailer and Local Agency.
 - 2. If a need is determined, send the retailer an application packet and inform the Local Agency.
- C. Based upon results of screening, successful inquiries will receive an application packet. The application packet contains a description of the WIC Program, an outline of the criteria, a Food List, stocking level requirements, an application form, and a price survey.
- D. The State reviews the application, ensuring information is complete and correct, minimum selection criteria is met, prices reflected in the price survey are competitive, and a need for a store in the geographic area has been determined. If the application is rejected, inform the retailer with a letter of ineligibility stating the reason for disapproval. Inform Local Agency of the decision.
- E. Successful applicants will be sent, by certified mail, three copies of the Montana DPHHD/WIC Retailer MOU. All copies must be signed and returned to the DPHHS Contract Officer. In the case where agreements are signed at the corporate headquarters, a copy of the signed agreement will be sent to the store's manager for their review and records.

- F. Once all requirements have been met, arrangements will be made for an Initial Visit Report to be conducted and reviewed.

II. Initial Visit

- A. An initial visit is the on-site visit made by WIC personnel to a store applying to participate in the Montana WIC Program and the visit will be made within 30 days of the visit request. The visit verifies that the required WIC food variety and quantity is in stock. It also provides the retailer with training in WIC policies and procedures such as what to expect in a WIC purchase and how to handle benefits.
- B. This visit may be made by either state or local agency staff. An inventory will be made of items in stock using the Initial Visit Report. The report will be signed by the WIC staff member and a store representative. This initial visit must be made and documented before the applicant may be authorized as a WIC retailer.
- C. The Initial Visit Report will be sent to the Montana WIC Program for review. If the report does not indicate that the required quantities and variety of WIC foods are in stock, a subsequent on-site visit must be made to document and verify the correction.
- D. If the retailer passes the visit, they will receive authorization, an acceptance letter and the following:
 - 1. an assigned retailer stamp
 - 2. two “We Accept WIC Checks” signs (to be posted near the entrance of the business)
 - 3. retailer training materials
 - 4. a supply of Report of Attempted Program Abuse forms
 - 5. additional copies of the “WIC Approved Food List” (in sufficient quantities to place one at each check stand)
 - 6. a copy of the Montana WIC Program Retailer Reference Manual.
- E. Once the retailer is authorized to accept and process WIC benefits, they are responsible for training their retail cashiers and bookkeepers in WIC procedures.
- F. The new retailer will be reassessed six months after authorization to determine if they are an “above-50%” retailer.

III. Retailer Authorization

- A. Upon phone notification of a successful and complete Initial Visit Report, the Montana WIC Program will notify the WIC bank, through their automated system, that the retailer has been authorized to process WIC benefits.
- B. In the case where agreements are signed at the corporate headquarters, a copy of the signed agreement will be sent to the store’s manager for their review and records.

IV. Follow-up

- A. The State will notify the local agency that the retailer has been authorized to participate in the WIC Program.

- B. The local agency will notify their participants that they may shop at this retailer.
- C. The State will add this retailer's name and city to the 'Montana WIC Retailer by City' list.
- D. The State will send notification to the WIC bank.
- E. Six months after authorization, all new retailers will be reassessed to determine if they are an "above 50%" retailer.

Policy Number: 9-15
Subsequent Retailer Application
Effective/Revised Date: October 1, 2009

Title: Subsequent Retailer Application

Purpose

As WIC retailer/farmer agreements expire, a process must be in place to ensure the continuity of WIC service to participants.

Authority

State policy.

Policy

It is the policy of the Montana WIC Program to ensure retail continuity in service to WIC participants through the creation and application of subsequent retailer/farmer application process.

Procedures

I. Review Process

- A. Review of retailer/farmer files due to expire will start at least 120 days (i.e., four months) prior to expiration. Retailers/farmers whose files pass the 'Retailer/Farmer Compliance Assessment' will be sent a packet to apply for subsequent authorization. Subsequent authorization is NOT automatic, but will be based on the same criteria as first-time applicants.
- B. Retailers/Farmers not passing the 'Retailer/Farmer Compliance Assessment' will be sent, by certified mail, a letter explaining the concerns of the WIC Program. A written response or corrective action plan will be required. If these concerns cannot be resolved, a subsequent application will not be issued.

II. Retailer/Farmer Compliance Assessment

- A. An annual retailer/farmer compliance assessment will be done to determine if an authorized retailer/farmer with an expiring contract should be considered for renewal of WIC authorization. The following are components of the retailer/farmer assessment:
 - 1. Review the retailer's/farmer's check-redemption history
 - 2. Review of cost containment requirements
 - 3. Review the file for complaints, timeliness of price surveys, violations and/or sanctions
 - 4. Review of the retailer monitoring reports
 - 5. Review of the retailer/farmer on-site visit reports
 - 6. Review retailer information available through the STARS system
 - 7. Review of any questionable SNAP information with Montana SNAP Officer-in-Charge

- 8. Review of the retailer's attendance at trainings
- 9. Review to ensure the retailer/farmer maintained the minimal customer base
- 10. Review to ensure the retailer/farmer maintained the minimal WIC sales base
- B. If the retailer/farmer passes the review, an application packet will be sent.
- C. If the retailer/farmer does not pass the review, a letter will be sent describing the problems and requesting a corrective action plan.

III. Subsequent Application Process

- A. Upon receipt of the completed application form, the Retailer Unit will compare the information to that on file. Any changes will be documented and verified. If all information is deemed acceptable, three signed copies of the DPHHS/WIC MOU will be issued to the retailer. All copies must be signed and returned to the DPHHH Contract Officer. In cases where MOU's are signed and maintained at the corporate headquarters, a copy of the signed MOU will be sent to the store's manager.
- B. If items reported on the application form are not acceptable, a letter will be sent to the retailer/farmer describing the problems and requesting a written response or corrective action plan. MOU's will not be issued until all matters are clarified to the satisfaction of the Retailer Unit.

IV. Right of Refusal

- A. A retailer/farmer is not obligated to apply for subsequent WIC authorization. A retailer/farmer may withdraw from the WIC Program by written notification, stating the date termination is desired. The WIC stamp must be returned to the Montana WIC Program at that time.
- B. The Montana WIC Program will send a letter of acknowledgment to the retailer when the retailer stamp is received.
- C. The Montana WIC Program is not obligated to offer a retailer/farmer a subsequent MOU.

V. Authorized Renewal

Upon receipt of the signed MOU, the Retailer Unit will enter the new expiration date into VMS.

Policy Number: 9-16

Timeline for Response to Retailer Application Requests

Effective/Revised Date: October 1, 2009

Title: Timeline for Response to Retailer Application Requests

Purpose

To respond to applications in a timely manner.

Authority

State Policy

Policy

It is the policy of the Montana WIC Program to process retailer applications in an efficient and timely manner.

Procedures

I. Introduction

- A. In order to respond to a retailer's request for authorization to become a WIC Retailer, a timeline has been established. The timeline allows for a reasonable response time to requests for information by both the retailer and the State Office.
- B. It is estimated the complete process using the maximum amount of response time for each step, will require ninety (90) days. Failure to respond in a timely manner by the retailer does not reduce the amount of time required by the State Office to respond. Also, failure by the State Office to meet the response deadlines, does not justify a request for an administrative review.

II. Documentation

- A. As steps are completed, documentation of correspondence received and sent, phone conversations, and e-mails will be maintained. All written mail correspondence will be sent with return receipt requested. The documentation will include
 - 1. date,
 - 2. content,
 - 3. persons involved,
 - 4. items (or copies of items if not standard, for example: application form),
 - 5. mail receipts and
 - 6. signature of State WIC staff

III. Timeline

- A. An application request by a retailer will begin the timeline. The timeline is found in the following table:

Application Timeline

Step	Responsible Person	Action	Timeline
1	Retailer or Local Agency	A written or verbal request is received by the State Office (SO) for a retailer application.	Start
2	Retailer Coordinator (RC)	Initial Screening & consult Local Agency	3 working days
3	RC	Mail application to retailer.	3 working days
4	Retailer	Return of completed application containing all requested information.	10 working days
5	RC	IF COMPLETE: Verify information as required IF INCOMPLETE: Contact retailer for additional information and verify available information as required.	10 working days Timeline halted until complete information received from retailer
6	RC	Send 3 Copies of DPHHS/WIC MOU to applicant	10 working days
7	Retailer	Return signed MOU's to DPHHS Contract Officer	Timeline halted until complete information received from retailer
8	RC	Review returned MOU's and verify information. contact Local Agency to perform an on-site visit to review retailer applicant. Mail appropriate materials for visit.	Upon receipt of complete application.
9	Local Agency Retailer (LARC)	On-site review of retailer applicant. IF: 1 or 2 clinic days per month IF: 3 or more clinic days per month	30 days 20 days
10	LARC	Submit completed Initial Visit Report to Retail Coordinator. If visit is successful, initial retailer training is completed, a retailer stamp and a copy of the Montana WIC Retailer Manual is given to the retailer.	Immediately after successful completion of on-site visit.
11	RC	Receive and review Initial Visit Report. If visit is unsuccessful, contact retailer and explain denial.	3 working days
12	RC	Authorize approved retailer in system.	Immediately after successful completion of on-site visit.

Policy Number: 9-17
Retailer Benefit Redemption Timeline
Effective/Revised Date: October 1, 2009

Title: Retailer Benefit Redemption Timeline

Purpose

Retailers submit WIC benefits to their banking institution for redemption. They need, expect and should receive payment in a timely manner.

Authority

7 CFR 246.12(f)(2)(iv)

Policy

It is the policy of the Montana WIC Program to ensure WIC benefits submitted for payment by retailers be redeemed no later than 60 days after the "First Day to Use".

Guidelines

Most Montana WIC benefits are issued for a 30-day period. Retailers have 30 days to deposit WIC Benefits to their bank, once it has been accepted at the store. All WIC benefits have an additional 30 days after the "Last Day to Use" for the retailer to redeem their benefits. This is a total of 60 days after the "First Day to Use" for a retailer to process and receive payment for their WIC benefits.

Note: In the event that a benefit is returned from the bank for error, the vendor has an additional 30 days to resubmit the benefit after state approval.

Policy Number: 9-18
Retailer Compliance System
Effective/Revised Date: March 31, 2009

Title: Retailer Compliance System

Purpose

The Montana WIC Program's compliance system is designed to verify and document any WIC Program non-compliance committed by WIC retailers. Appropriate education, sanction and/or disqualification will be imposed pursuant to the results.

Types of investigations include monitoring visits, educational purchases, compliance purchases and inventory audits.

Federal regulations require that compliance purchases/investigations be conducted at five (5) percent of all authorized Montana WIC retailers annually. Actual WIC benefits will be used in both educational and compliance purchases.

Authority

7 CFR 246.12 (j)

Policy

It is the policy of the Montana WIC Program to perform compliance visits to ensure retailers are following the rules and regulations of the Program.

Guidelines

I. Monitoring Visits

- A. A monitoring visit is defined as an on-site visit conducted by WIC staff to verify the retailer continues to have the required variety and quantity of WIC products and is following WIC procedures. A monitoring visit will be conducted at least once during a retailer's contract period.
- B. A monitoring visit may include either an educational buy or observation of a WIC purchase AND a review of the WIC checks accepted that day by the retailer.
- C. A monitoring visit will include discussion with retailer staff as to WIC procedures, problems and areas of concern.
- D. The WIC staff member will complete a monitoring review form. The completed form will be discussed with the retailer's management. Both parties will sign the form before the WIC staff leaves the retailers' store.
- E. The original Monitoring Visit Report will be sent to the State office.

II. Educational Purchase/Visit

- A. An educational purchase is defined as an overt purchase made with WIC benefits by WIC staff. The purchase is made with the knowledge of the retailer's management, though not necessarily that of the retailer staff. The purpose of the educational purchase is to train retailer staff in the appropriate WIC transaction procedures. This

purchase may help determine problem areas in retailer procedures. This training tool will NOT result in sanctions.

- B. The educational purchase may be part of an on-site training/demonstration held by WIC staff, at the request of retailer staff and/or management. Instructions on proper procedures can be given during the purchase demonstration. Questions concerning debatable food items will be answered, or referred to the Montana WIC Program for clarification.
- C. The educational purchase may be part of a regularly scheduled monitoring visit. Erroneous practices will be discussed with either the staff or the management after the purchase has been completed.
- D. WIC benefits used during this purchase will NOT be processed through the banking system. The purchase will be 'voided' at the checkstand. Food products will be returned to the shelves. The WIC benefits will be 'voided' and returned to the WIC staff.
- E. Documentation of the Educational Purchase/Visit shall be sent to the State office.

III. Compliance Purchases

- A. A compliance purchase is defined as a covert purchase made with WIC benefits by WIC staff or designated representative(s). The purchase is made without the knowledge of the retailer's management or staff. An investigative agent (posing as a WIC participant or proxy) will attempt to obtain evidence the retailer allows WIC Program violations or fraud to be committed at that specific retailer location. The investigative agent may conduct one or more compliance purchases at a selected retailer. Retailers may be selected for cause or at random. After completion of the purchase(s) and leaving the retailer's store, a Compliance Buy Report will be filed with the Montana WIC Program.
- B. The Montana WIC Program shall decide if a purchase investigation will be performed and whether an educational purchase may precede a compliance purchase. The decision will be based on the type of violation, statistical and financial significance of the violation and criteria for investigations.

IV. Inventory Audits

- A. An inventory audit is defined as the comparison of reported WIC purchases against the retailer's inventory records for a specific period.
- B. The WIC Retailer Agreement, in Section VI: Accounting, Auditing, Record Retention, Cost Principles, and Access to Records, requires retailers to maintain records related to inventory and purchases for a minimum three-year period.
- C. A WIC staff member or designated representative(s) will visit the retailer's offices. A request to view the inventory records will be made at that time.
 - 1. WIC staff member will visit the retailer on the first day of the month to count all stock, shelved and stored of infant formula.
 - 2. WIC staff member will visit the retailer on the last day of the month to count all stock, shelved and stored of infant formula.

- 3. Compare formula purchased with WIC benefits to retailers records two to three weeks later.
- D. Inventory audits will not be announced in advance.

V. Follow-Up Procedures

- A. The retailer will be notified, by certified mail, of the investigation, violations found and the subsequent consequences. If such notification would compromise an investigation of a violation that requires a pattern of violations, notice of a first violation will not be given. Failure to respond to this notification may result, in itself, in retailer sanction or disqualification.
- B. The retailer can appeal any sanction or disqualification. Retailers must request a Fair Hearing from the Montana WIC Program. Retailers have thirty (30) days from the effective date of the adverse action to appeal the Montana WIC Program's decision.
- C. The Montana WIC Program will notify the Regional FNS Office of any WIC retailer disqualification. If the retailer involved is part of a "chain", the chain's regional/district manager will be notified. The disqualification of a retailer due to a compliance investigation may be publicly advertised if it is determined this will be beneficial to the overall attitude toward the Montana WIC Program.
- D. Disqualification from the Montana WIC Program may result in disqualification from SNAP.
- E. If you wish to talk to someone from the Montana WIC Program about the compliance purchase, inventory audit or an administrative review, contact the Montana WIC Program at 1-800-433-4298. Retailers are encouraged to resolve disputes without an administrative review.

VI. Payment Violation

- A. When a payment violation is discovered, that does not merit disqualification, a claim will be submitted by the Montana WIC Program to reclaim those funds.
- B. The store has 30 days to pay the claim or arrange a payment plan.
- C. An in store training must take place for all store personnel.
- D. Failure to meet these requirements will result in disqualification from the WIC Program.

Policy Number: 9-19
Routine Retailer Monitoring Visits
Effective/Revised Date: October 1, 2009

Title: Routine Retailer Monitoring Visits

Purpose

Monitoring visits allow the WIC Program to examine actual stocking variety and quantity, to review WIC benefits already accepted that day, and to possibly watch WIC purchase(s) in progress. This information allows the WIC Program to detect possible fraud and/or abuse, discuss with the retailer staff any problems/solutions, and the opportunity to clarify any misunderstandings or misconceptions. Monitoring visits will not be pre-scheduled with retailer staff

Authority

7 CFR 246.12(j)

Policy

It is the policy of the Montana WIC Program that at least five (5) percent of authorized retailers will receive a routine monitoring visit each federal fiscal year. The Montana WIC Program may request the local WIC retailer coordinator to conduct such visits.

Guidelines

- I. Criteria used to select retailers for monitoring visits include, but are not limited to:
 - A. retailers whose contracts will expire within the next 12 months;
 - B. retailers in a service area being monitored by the Montana WIC Program;
 - C. retailers classified as “high risk” but not having a form of compliance investigation;
 - D. retailers having verbal complaints from WIC participants;
 - E. retailers experiencing benefit-cashing problems.

Procedures

I. Retailer Monitoring

- A. Monitoring visits allow the Montana WIC Program to review a retailer “in action”. The monitoring visit is performed in accordance with federal regulations and will be conducted for each contracted retailer at least once during each contract period.
- B. Is able to:
 - 1. verify the store signs are posted;
 - 2. verify food prices are clearly posted either on the shelves or on the individual food items;
 - 3. examine actual stocking variety and quantity;
 - 4. review WIC benefits already accepted by the retailer;
 - 5. watch WIC purchases in progress;

6. discuss any problems the retailer has experienced;
7. clarify any misunderstandings or misconceptions;
8. offer suggestions to improve the processing and handling of WIC benefits;
9. use the above to determine if a potential for fraud or abuse exists.

C. Types of Monitoring

1. Monitoring visits can be classified as either 'routine' or 'compliance investigation'.
2. A 'routine monitoring' visit may be either a:
 - a. contractual visit; or an
 - b. educational or training visit.
3. A 'compliance investigation' is performed pursuant to reports or complaints of fraud or abuse, statistical reports indicating the retailer may be at high risk for fraud or abuse, or due to the retailer's failure to comply with requested improvements. A compliance investigation may be either an:
 - a. inventory audit; or a
 - b. compliance purchase.

D. Monitoring Staff

1. Monitoring staff are employees of the WIC Program who will conduct the monitoring visit. The monitoring staff for a routine visit will be an employee of either the WIC State office or WIC Local Agency office. The monitoring staff for a compliance investigation will be an employee of the WIC State office staff or their contracted designee.

II. Contractual Visit

- A. A contractual visit is a monitoring visit performed in accordance with federal regulations. A contractual visit will be conducted for each contracted retailer at least once during each contract period.
- B. Criteria
 1. Criteria used to select retailers for contractual visits include, but are not limited to:
 - a. retailers whose contracts will expire within the next 12 months;
 - b. retailers in a service area being monitored by the Montana WIC Program;
 - c. retailers classified as "high risk" but not receiving a form of compliance investigation;
 - d. retailers having verbal complaints from WIC participants;
 - e. retailers experiencing benefit-cashing problems.
- C. Procedure
 1. The WIC monitor staff will enter the premises of the retailer, noting date and time of visit on the "Montana WIC Program Visit" form. The locations of the "We Accept WIC Checks" signs and use of shelf-talkers/channel strips are to be

noted, as well as the general condition of the business, and the ease in locating WIC items.

2. The WIC monitor staff will walk through the store, noting the actual variety and quantities of WIC foods, and the expiration dates of cereal, milk and infant formula.
3. The WIC monitor staff will go to the retailer manager, introduce her/himself, explain the purpose of the visit, and request to see any WIC benefits accepted that day.
4. The WIC monitor staff will review the WIC benefits to verify the dates are current, the dollar amounts of sale were entered correctly, and the benefits have been signed by the participant. When possible, the WIC monitor will compare the benefits to business/computer records to verify correct items and quantities were purchased.
5. The WIC monitor staff will meet again with the manager to discuss the visit findings. The manager will be requested to sign the visit form.
6. The WIC monitor staff will note the time of departure on the form.
7. The WIC monitor staff will make a copy of the form for their records.
8. The original form will be sent to the Montana WIC Program for review.

D. Follow-Up Action

1. The State will review the monitoring report to ensure the retailer's authorization criteria continues to be met.
2. The State will write a letter to the retailer, with copy to the LARC, describing any problems and recommended solutions.
3. The retailer will have a thirty (30) day period to submit a corrective action plan.
4. The response will be evaluated as to meeting or not meeting the State's concerns. The State will either thank the retailer for their response, or write again, addressing further concerns.
5. If the retailer is a member of a chain, copies of all correspondence will be sent to the chain's headquarters.

E. Local Agency Timeline

1. The local agency will have two weeks to complete each monitoring visit requested and return the documentation to the State WIC Program.

III. Educational/Training Visit

A. An educational/training visit is defined as an overt purchase made with WIC benefits by WIC staff. The purchase is made with the knowledge of the retailer's management, though not necessarily that of the retailer staff.

B. Criteria

1. Educational/training visits are scheduled based on data compiled at the State office indicating inappropriate benefit cashing procedures, or would be scheduled

at the request of the retailer for training purposes. The educational/ training visit may be part of a regularly scheduled monitoring visit.

2. The purpose of the educational/training visit is to educate/train retailer staff in the appropriate WIC transaction procedures. This purchase may help determine problem areas in retailer procedures.

C. Procedure

1. Two weeks before conducting the visit, contact the State office and request benefits to be used during the Educational Buy.
2. WIC staff will enter the premises of the retailer, noting date and time of the visit on the "Montana WIC Program Visit" form. Contact the retail manager and explain the purpose of the visit. Explain the following to the retail manager: An educational visit will be done to determine any training cashiers require to complete a WIC transaction.
3. WIC staff will select items (may be non-authorized WIC foods, larger sizes of authorized foods or non-food items) and proceed to the check stands
4. Do not mix personal items with WIC items during this educational purchase.
5. Have a WIC ID packet with you and note if the cashier asks for it and compares the signatures.
6. Have a variety of eligible and non-eligible items. Try purchasing:
 - a. Low iron formula;
 - b. Fruit drink instead of juice;
 - c. Non-authorized cereal (Fruit Loops);
 - d. Infant cereal with fruit;
 - e. Block of cheese larger than a pound or sliced cheese;
 - f. 2% milk when the benefit states whole.
7. Mention to the cashier that a WIC benefit will be used before the transaction begins.
8. The WIC staff member should follow any instructions the store personnel may give with regard to the transaction.
9. Do not question or dispute any instructions given by the cashier.
 - a. Answer questions asked by the cashier with an "I'm not sure" response. Do not give a "sob story" to the clerk. This type of reply is considered coercion and can lead to entrapment.
 - b. After passing through the check stands and before beginning your conversation with the store manager, ask the manager to return to the cashier, retrieve the benefit and void the transaction. After the benefit is brought back, attach the corresponding sales receipt and write void across the benefit.
 - c. Discuss the results of the visit with the retail manager.

- d. Suggest the cashier(s) be allowed to listen.
- e. Complete the visit form, including the signature of the retail manager.
- f. Leave a copy of the visit form with the retail manager.
- g. If the visit resulted in numerous errors:
- h. Discuss the need for store personnel training. Suggest they review the Montana DPHHS training video." Retail Grocer's Training Tapes for proper WIC Check- Out Procedures", (check if they have a copy) and offer on-site training by WIC staff.
- i. Explain that numerous errors during an educational visit may lead to a "compliance purchase".
- j. Return the items used in the educational visit back to the shelves before you leave the store.

D. Follow-up

Erroneous practices will be discussed with either the staff or the management after the purchase has been completed. The WIC benefits used during this visit will NOT be processed through the banking system. The purchase will be 'voided' at the check stand. Food products will be returned to the shelves. The WIC benefits will be returned to the State office with the visit forms.

E. LARC Future Training

The LARC will be informed of the results of the educational/training visit completed by State staff, for use in responding to future training questions

Policy Number: 9-21
High Risk Evaluation Criteria
Effective/Revised Date: October 1, 2009

Title: High Risk Evaluation Criteria

Purpose

Criteria are needed to evaluate how the WIC Program is actually handled at the retail sites, and to ensure that benefits are processed according to established WIC procedures. Criteria will show where abuse or fraud may take place.

Authority

7 CFR 246.12 (j)

Policy

It is the policy of the Montana WIC Program that standardized criteria are used as guidelines to evaluate WIC retailers on a yearly basis. Such criteria will be applied equally to all retailers. Retailers identified by one or more items will be evaluated to determine if on-site training, a monitoring visit or a compliance investigation is warranted.

Guidelines

I. High-risk criteria will include, but not be limited to:

- A. Small amount of variance in benefit prices by retailer;
- B. High means in benefit prices by retailer;
- C. Inverse number of benefits cashed;
- D. Ratio of error benefits to all benefits cashed;
- E. Large variance in benefit prices for formula food packages.

II. Follow-Up Action

High-risk retailers will be ranked to determine which stores receive a compliance investigation or a monitoring visit. A compliance investigation will consist of either a compliance buy or an inventory audit.

Title: Compliance Investigations

Purpose

Program compliance is mandatory to operate an efficient and effective program. Abusive retailers must be removed from the program to ensure the WIC Program is utilized, to the greatest extent possible, by participants throughout the state.

Compliance investigations will be performed by State personnel or their contracted designee.

Authority

7 CFR 246.12 (j)(4)

Policy

It is the policy of the Montana WIC Program that compliance investigations be used to evaluate high-risk WIC retailers, as defined in Policy 9-21. A minimum of five (5) percent of all authorized WIC retailers will receive a compliance investigation annually. These retailers will be identified as having high risk criteria. If less than 5% of retailers are categorized as high risk, the balance will be randomly selected.

Guidelines

I. Compliance investigations

- A. Compliance investigations shall be accomplished by conducting either an:
 - 1. Inventory audit - an overt on-site comparison of the retailer's inventory to WIC purchases within a specified time period. Retailers are required by their WIC agreements to maintain their inventory records for a minimum period of three (3) years; or a
 - 2. Compliance purchase - a covert WIC purchase. Compliance purchases will be performed in a series to verify Program abuse by the retailer.

II. Sanctions

- A. Retailers must be given written notice of an initial violation before imposing a sanction for a pattern of violations, unless such notification would compromise an investigation of a violation that requires a pattern of occurrences. Sanction notification will be sent via certified mail,
- B. Sanctions for violations requiring only one instance of a violation that would result in disqualification will not be given advance notice, such as:
 - 1. federal disqualification
 - 2. criminal conviction of trafficking benefits
 - 3. sale of guns, ammunition, explosives or controlled substances for benefits
 - 4. sale of alcohol, or tobacco products in exchange for benefits

- C. The maximum amounts of all vendors Civil Money Penalties (CMP) based on convictions for trafficking or illegal sales are \$11,000 for each violation and \$44,000 for the total amount of CMP's for multiple violations occurring during a single investigation. The new maximum for amounts for CMP fines take effect on March 9, 2009. Refer to Retailer MOU section 6 – Sanctions for program violations.
- D. Montana defines a “pattern of violations” as two instances of the same violation being committed by store personnel. This could be a single person or multiple persons committing the same violation.
- E. Refer Montana WIC Retailer Contract Section 6, page 7-12 for complete list of rules for sanctions.

Procedures

I. Inventory Audit

A. Definition

- 1. An inventory audit is defined as the comparison of reported WIC purchases against the retailer's inventory records for a specific period.
- 2. Inventory audits will not be announced in advance. The local agency will not be informed of inventory audits conducted in their area.

B. Criteria

The WIC Retailer Agreement, in Section VI: Accounting, Auditing, Record Retention, Cost Principles and Access to Records, required retailers to maintain inventory records and other records related to purchases for a minimum three-year period.

C. Procedure

- 1. A WIC staff member or a designated representative will visit the retailer to determine the total amount of stock available. This includes what is on the shelves as well as in the storage area. This must occur on the first day of the inventory period.
- 2. On the last day of the inventory period, a WIC staff member or a designated representative will visit the retailer to calculate the total amount of stock available.
- 3. A WIC staff member or a designated representative will visit the retailer's offices. A request to view the invoice receipts will be made at that time. A calculation based on the beginning stock, the ending stock, and the amount of stock purchased according to the Invoice receipts will be compared to redemption records to verify the amount of stock presumed sold in WIC purchases.

D. Follow-up Action

- 1. The retailer will be notified, by certified mail, of the investigation, violations found and the subsequent consequences. A copy will be sent to the LARC.
- 2. The retailer can appeal any sanction or disqualification. Retailers must request a Fair Hearing from the Montana WIC Program. Retailers have thirty (30) days from the effective date of the adverse action within to appeal the Montana WIC Program's decision.

3. The Montana WIC Program will notify the Regional FNS Office of any WIC retailer disqualifications. If the retailer involved is part of a “chain”, the chain’s regional/district manager will be notified.
4. Disqualification from the Montana WIC Program may result in disqualification from SNAP.

II. Compliance Purchase

- A. A compliance purchase is defined as a covert purchase made with WIC checks by WIC staff or their contracted designee. The purchase is made without the knowledge of the retailer’s management or staff. A compliance investigator (posing as a WIC participant or proxy) will attempt to obtain evidence showing the retailer allows WIC Program violations or fraud to be committed at that specific retailer location.
- B. Criteria
 1. Retailers may be selected for cause, or at random. The Montana WIC Program shall decide whether any type of purchase investigation will be performed prior to authorizing such investigations, and whether an educational purchase may precede a compliance purchase.
 2. The decision will be based on the type of violation, statistical and financial significance of the violation and criteria for investigations.
- C. Procedure
 1. The compliance investigator will review the retailer’s file and become familiar with any problems with the retailer.
 2. Training and education will be provided by the State Agency to the investigator prior to the compliance purchase. The training will include:
 - a. not to invoke sympathy or try in any way to convince or coerce the cashier to allow any possible non-authorized foods to be purchased;
 - b. the fact they may be embarrassed and if the situation does become embarrassing or hostile, leave the store immediately;
 - c. exactly what to purchase, and the procedures for cashing a WIC check;
 - d. the investigator assigned to the case will complete as much of the WIC Investigation Report Form as possible prior to the visit to the retailer;
 - e. the investigator will be issued a WIC ID packet by the State Agency along with WIC checks. These checks will be computer generated and copies of the checks will be attached to the WIC Investigation Report Form.
 3. The investigator will drive to the retailer’s place of business. The investigator observes and documents the time he/she enters the store. The investigator will:
 - a. record the number of checkout stands
 - b. select the items he/she has been instructed to purchase. (At the second compliance visit, if possible, a different cashier from the first compliance visit should be used for checkout). The investigator will tell the cashier before the

items are rung up that he/she is a WIC participant and will be using WIC checks. If the investigator is told he/she cannot purchase any unauthorized food items, she should return them and pick up the items listed on the WIC checks or requested by the retailer.

- c. the investigator will take the receipt and the items purchased, leave the store and complete the appropriate documentation.
 - d. following the purchase, the investigator will complete the WIC Compliance Buy Report form. The receipt and any change from the transaction will be given to the State Agency. The food items purchased will be submitted to the State Agency along with photographs of the food items (unless otherwise directed).
 - e. at the last compliance purchase for the retailer, the investigator will photograph the store front upon final departure.
4. All food items obtained during a compliance purchase will be photographed by the compliance investigator and then donated to a non-profit agency. A receipt, which is filed with the final report, will be obtained from the non-profit agency acknowledging the donation.
 5. A letter will be sent to the retailer after each compliance visit, describing the results of the buy. Follow up training and education will be offered as necessary. The retailer will be informed of possible sanction points being assigned if a pattern of violations continue to occur.

D. Number of Compliance Purchases

1. A positive transaction is one in which the compliance investigator is allowed to purchase unauthorized food items, non-food items, exchange cash, commit fraud, or any violation of the Montana WIC Retailer Agreement. A negative transaction is one in which no violations occur.
2. Two positive transactions will result in the case being closed. Sanctions will be imposed.
3. Two negative transactions will result in the case being closed. Sanctions will not be imposed.
4. There will always be at least two compliance purchases made at a particular retailer unless the State Agency decides otherwise.
5. If there is one negative and one positive transaction, an additional compliance purchase will have to be made in order to determine if there have been two negative or two positive transactions.

E. Follow-up Action

1. The State Agency will retrieve the checks used in the compliance purchase after redemption to be used as evidence. A case file will be completed on the investigation by the State Agency. This will include:
 - a. any reports or complaints that were used to select the retailer for a compliance purchase; the investigation report; any receipts from the transaction, and the checks used for the compliance purchase; any document

of prior warnings or retailer visits; the letter sent to the retailer notifying the retailer of the compliance purchases; any correspondence from the retailer regarding the case, including documentation of phone contact; any materials relating to a fair hearing if one is requested, including the decision of the hearing office.

- b. The retailer will be notified by mail the results of the compliance buy. If the retailer is under further investigation a letter will not be sent.
- c. The Local Agency will receive a copy of the letter.

F. Adverse Actions

- 1. The retailer will be notified, by mail, the results of the completed investigation, violations found and the subsequent consequences. If notification would compromise an investigation a letter will not be sent.
- 2. The retailer can appeal any sanction or disqualification. Retailers must request a Fair Hearing from the Montana WIC Program. Retailers have thirty (30) days from the effective date of the adverse action within to appeal the Montana WIC Program's decision.

The Montana WIC Program will notify the Regional FNS Office of any WIC retailer suspended or disqualified. If the retailer involved is part of a "chain", the chain's regional/district manager will be notified. Disqualification from the Montana WIC Program may result in disqualification from SNAP.

Policy Number: 9-24
Administrative Review – Retailer/Farmer
Effective/Revised Date: October 1, 2009

Title: Full Administrative Review

Purpose

An administrative review is the procedure requested by a retailer/farmer to determine if they have the right to contest a decision made by the State WIC Program.

Authority

7 CFR 246.18(b), (c), (d), (e) and (f)

Policy

It is the policy of the Montana WIC Program to allow a retailer an administrative review to contest a punitive decision rendered by the Montana WIC Program.

Procedures

I. Introduction

- A. The Montana WIC Program will provide, upon request, a full administrative review to a retailer who has received the following adverse actions:
- B. Denial of authorization based on:
 - 1. retailer selection criteria for competitive price or for minimum variety and quality of authorized supplemental foods and the vendor is attempting to circumvent a sanction;
 - 2. termination of an agreement for cause;
 - 3. disqualification; and
 - 4. imposition of a fine or a civil money penalty in lieu of disqualification.
- C. A retailer/farmer may request an administrative review due to receipt of an adverse action. An administrative review will be provided subject to Policy 9-25 and 9-26.
- D. At the time an adverse action is invoked, a written notice will be sent to the retailer/farmer. The notice will contain the effective date, the procedure to follow to obtain an administrative review (the notice must specify which type of review may be requested) and the timeframe for the request. If the adverse action is related to disqualification, the notice will contain the following statement: "This disqualification from Montana WIC may result in disqualification as a retailer in SNAP. Such disqualification is not subject to administrative or judicial review under SNAP.
- E. A disqualification as a result of a conviction of trafficking will be effective immediately.

II. General Conditions

- A. The retailer has sixty (60) days from the date of receipt of the written notice of adverse action to request an administrative review. The request for an

administrative review may be made through the Local Agency Retailer Coordinator or the Montana WIC State Office. The request may be written or verbal.

- B. The Montana WIC Program will determine the type of administrative review allowed according to Policy 9-25 and 9-26.
- C. If a retailer/farmer is allowed to continue operation as a Montana WIC Retailer during the process of an administrative review, the terms of the Montana WIC Retailer/Farmer Agreement are still in force and the retailer must comply with the terms.
- D. If the decision of the administrative review upholds the adverse action, this will be the final action taken by the Montana WIC Program. Any adverse action related to the administrative review which has not already taken effect, must do so on the date the retailer receives the notification of the decision.
- E. The retailer may appeal the administrative review decision in District Court in the First Judicial District of the State of Montana, in and for the County of Lewis and Clark within thirty (30) days of receiving the written decision.

III. Procedure for a Full Administrative Review

- A. The Montana WIC Program will set the date for a full administrative review within three weeks of the receipt of the request.
- B. The retailer will be notified in writing within a minimum of ten days in advance of time and place of the full administrative review.
- C. A full administrative review for a retailer will be held in the county in Montana in which the business operation in question is physically located.
- D. The full administrative review will be conducted by a fair and impartial official according to 7 CFR 246.18 and applicable portions of Title 2, Chapter 4 Montana Code Annotated, whose decision will rest solely on the evidence presented at the hearing and the state's approved policies and procedures governing the Montana WIC Program.
- E. The retailer will have the opportunity to:
 - 1. review the case file prior to the full administrative review;
 - 2. representation by legal counsel;
 - 3. cross-examine adverse witnesses (protection of the identity of investigators may result in the examination being conducted "in camera" or with the witness behind a protective screen);
 - 4. present his/her/its case; and
 - 5. reschedule the full administrative review date once upon request.
- F. The retailer will be notified of the decision of the full administrative review within ninety (90) days of the receipt of the retailer's request for an administrative review. The notification must include the basis for the decision. Failure on the state's part to meet the decision notification timeframe is not grounds for overturning the adverse action.

Policy Number: 9-25
Administrative Review Retailer
Effective/Revised Date: October 1, 2009

Title: Abbreviated Administrative Review

Purpose

An abbreviated administrative review shall be provided to a retailer/farmer upon request through which an appeal may be made for specific adverse actions described in the policy statement. The retailer/farmer has sixty (60) days from the date of receipt of the written notice to request an administrative review.

Authority

7 CFR 246.18(a)(1)(i), 246.18(a)(1)(ii) and (246.18(a)(1)(iii)

Policy

It is the policy of the Montana WIC Program to provide upon request an administrative review to a retailer/farmer who has received adverse actions.

I. Abbreviated Administrative Review

- A. The Montana WIC Program will provide, upon request, an abbreviated administrative review to a retailer/farmer who has received the following adverse actions:
- B. denial of authorization based on:
 - 1. business integrity;
 - 2. current SNAP disqualification or civil money penalty for hardship;
 - 3. Montana's retailer selection criteria if the basis of the denial is a:
 - a. WIC retailer sanction; or
 - b. SNAP withdrawal of authorization or disqualification;
 - 4. Montana's retailer limiting criteria;
 - 5. submission of the application outside the timeframes established for accepting and processing applications;
- C. termination of the agreement because of change in ownership, location, or cessation of operations;
- D. disqualification based on:
 - 1. a trafficking conviction;
 - 2. imposition of a SNAP civil money penalty for hardship; or
 - 3. a mandatory sanction imposed by another WIC state agency; or
- E. civil money penalty imposed in lieu of disqualification based on a mandatory sanction imposed by another WIC state agency.
- F. A civil money penalty imposed in lieu of disqualification based on a disqualification imposed by SNAP.

II. Denial of Administrative Review

- A. The Montana WIC Program will not grant an administrative review if requested by the retailer and the basis of the request is:
- B. the validity or appropriateness of
 - 1. Montana's retailer limiting criteria;
 - 2. Montana's retailer/farmer selection criteria; or
 - 3. Montana's participant access criteria and the participant access determination;
 - 4. peer group criteria.
- C. the determination by the Montana WIC Program as to whether the retailer/farmer had an effective policy and program in place to prevent trafficking and the retailer/farmer was not aware of, did not approve of and was not involved in the commission of the violation;
- D. expiration of the agreement;
- E. disqualification from the Montana WIC Program as a result of disqualification from SNAP;
- F. disputed food instrument payments or retailer/farmer claims (other than the opportunity to justify or correct a retailer overcharge or other error).
- G. The Montana WIC Program's determination to include or exclude an infant formula manufacturer, wholesaler, distributor or retailer from the State Agency list.
- H. The State agencies determination whether to notify a retailer in writing when an investigation reveals an initial violation for which a pattern must be established in order to impose a sanction.

Policy Number: 9-26
Notification of Retailer of Changes
Effective/Revised Date: October 1, 2002

Title: Notifying Retailers of Changes

Purpose

In order to maintain a smooth transition to new policies or practices related to the retailer portion of the WIC Program, the retailers contracted with the Montana WIC Program must be informed of changes prior to implementation so they have a time period in which to make the necessary changes or choose to terminate the contract.

Authority

7 CFR 246.12(h)(7)

Policy

It is the policy of the Montana WIC Program to notify the Retailer at least thirty (30) days in advance of implementation or effective date of changes to the contract, policies or procedures which govern the retailer component of the WIC Program.

Guidelines

- I. Notification may be in writing from the State Office or in an interactive training offer either by the State Office or the Retailer Coordinator at the local agency.
 - A. In the case of interactive training, the thirty (30) day advance notification of changes must be met by the date of the first scheduled training.
 - B. Any second offering of the same training to inform retailers of changes may be less than thirty (30) days prior to the implementation or effective date of the changes.

Policy Number: 9-27
Retailer Education/Training
Effective/Revised Date: October 1, 2005

Title: Retailer Education/Training

Purpose

This section is to describe retailer training content to ensure retailers meet all criteria of the Montana WIC Program.

Authority

7 CFR 246.12 (h) (3)

Policy

It is the policy of the Montana WIC Program to offer some type of retailer training annually, to ensure retailers are knowledgeable about changes in the Montana WIC Program, and that those changes are being enforced.

Guidelines

I. Description of Retailer Education or Training

- A. Retailer education and training is directed at reducing errors, preventing abuse and improving program services. Retailer training is also designed to be consistent statewide. Retailer training may be conducted for the following reasons:
 - 1. Retailer is newly authorized;
 - 2. Retailer requests education/training;
 - 3. Required annual education/training, which must be an interactive session at least once every three years;
 - 4. Required education/training as directed by the Montana WIC Program;
 - 5. Retailer is one of pool of authorized Montana WIC retailers selected for routine monitoring;
 - 6. Any non-compliance with the Montana DPHHS/WIC Retailer Agreement; or
 - 7. Retailer is identified as probable high-risk.
- B. Interactive retailer education/training may take place on-site or off-site at a minimum of every three years. It must be interactive (face-to-face) to enable questions from the retailer. Education/training will be conducted by the LARC at the direction of the Montana WIC Program. On occasion, education/training will be conducted by the Retailer Coordinator from the Montana WIC Program.
- C. Annual retailer education/training may be conducted by the LARC or State Agency.

II. Content

- A. Annual training will include at the following topics:
 - 1. Purpose of the WIC Program;

2. Supplemental foods authorized by the Montana WIC Program;
 3. Minimum varieties and quantities required to be stocked by retailers;
 4. Procedures for transacting Montana WIC benefits;
 5. Montana WIC Program retailer sanction system;
 6. Method by which retailers may register a complaint;
 7. The claims procedure;
 8. Infant formula must be purchased from the Montana WIC approved list.
 9. Any changes since the last education/training effecting retailers.
- B. In addition, LARCs will be encouraged to review retailer files and contact the Montana WIC Program for topics of interest to retailers in the service area.

III. Attendance at/ Participation in Required Education or Training

- A. Failure to attend interactive required education/training will result in the non-renewal of the Montana DPHHS/WIC Retailer Agreement.
- B. Annual training is required. At a minimum, the Montana WIC Program must offer interactive education/training once every three (3) years. In alternate years, the Montana WIC Program will determine the method of delivery of annual training. The quarterly "Montana WIC Retailer Newsletter" may serve as a form of annual training.
- C. Other education/training may be deemed required. This education/training may be as a result of sanctions and/or a pattern of errors.

Policy Number: 9-28
Use of Retailer/Farmer or Participant Collections
Effective/Revised Date: October 1, 2009

Title: Use of Retailer/Farmer or Participant Collections

Purpose

Compliance investigations are required by federal regulations. No additional funding is granted for compliance investigations. Compliance purchases can be funded from Food, Administrative Funds, vendor or participant collections.

Authority

FNS Instruction 807-2

Policy

It is the policy of the Montana WIC Program to use any funds collected from retailers or participants as Administrative funds for compliance investigations and/or education.

Guidelines

- I. Federal regulations allow the use of vendor and participant collections for any allowable NSA cost. The funds must be used in the fiscal year that:
 - A. the initial obligation was made
 - B. the claim arose
 - C. the funds are collected, or
 - D. after the funds are collected.

MONTANA STATE PLAN & POLICY MANUAL CHAPTER NINE

Policy Number: 9-29

Use of WIC Acronym and Logo

Effective/Revised Date: October 1, 2010

Title: Use of WIC Acronym and Logo

Purpose

Ensure enforcement of WIC requirements and protect against infringement of service marks. The WIC acronym and logo are service marks owned by the USDA, and all rights therein and goodwill pertaining thereto belongs exclusively to USDA.

Authority

Policy Memorandum #2009-1

Policy

Montana WIC authorized retailers and food manufacturer contractors are not permitted to use the WIC service mark or logo to avoid giving the impression to the Program participants that the business is affiliated with or sponsored by the State agency, USDA or the WIC Program, when this is not true.

Guidelines

- I. WIC acronym, service marks and logo may not be used in a retailer or manufacturer name.
- II. WIC acronym, service marks and logo may not be used on a manufacturer's goods label, packaging, tag or container.
- III. Authorized retailers and manufacturer contractors may not apply stickers, tags, or labels having the service marks thereon to WIC-approved products.
- IV. Retailers may use channel strips or shelf talkers using the service marks to identify WIC-approved products, including channel strips or shelf talkers provided by manufacturers if they have been submitted to the State office and received approval, or have been issued by Montana WIC.
- V. Retailers may use the WIC acronym, service marks and logo in advertising or promotional materials used to inform the public that the retailer is WIC-authorized, such as the "We Accept WIC" poster provided by Montana WIC. Retailers and manufacturer contractors may not use the acronym, service marks and logo in any other advertising or promotional literature.